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In the Supreme Court
OF THE
United States

OCTOBER TERM, 1952

HARRY RENTON BRIDGES, J. R. ROBERTSON, and HENRY SCHMIDT, *Petitioners,* vs. UNITED STATES OF AMERICA, *Respondent.*	No. 548
HARRY RENTON BRIDGES, *Petitioner,* vs. UNITED STATES OF AMERICA, *Respondent.*	No. 549

MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE AND BRIEF OF INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION (AND CERTAIN OF ITS AFFILIATED LOCALS) AS AMICUS CURIAE.

INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION (and certain of its affiliated locals),
Amicus Curiae.

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MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE.

To the Honorable Fred M. Vinson, Chief Justice of the United States, and to the Honorable Associate Justices of the Supreme Court of the United States:

Comes now the International Longshoremen's and Warehousemen's Union[1] (hereinafter referred to as

[1]The following locals of the ILWU join in the presentation of this motion: Local 15, Bellingham, Wn., Local 32, Everett, Wn., Local 23, Aberdeen, Wn., Local 24, Aberdeen, Wn., Local 7,

ILWU), and respectfully moves this Court, pursuant to Rule 27 (Paragraph 9), for leave to file the accompanying brief in this case as *amicus curiae*. The consent of the attorney for the petitioners herein to the filing of this brief has been obtained and filed with the Clerk of this Court. The consent of the attorney for the respondent was requested on January 27, 1953, but no reply has yet been received.

The interests of said ILWU and its locals, and its reasons for asking leave to file a brief *amicus curiae* are:

ILWU is a trade union of approximately seventy thousand members. These persons, more than most others, have watched with great concern the almost twenty-year persecution and harassment of their President, Harry Renton Bridges, and the more recent involvement therein of their other officers, J. R. Robertson and Henry Schmidt. There is a strong feeling among the members of this union that this "relentless crusade"[2] against Bridges arises out of the

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Bellingham, Wn., Local 4, Vancouver, Wn., Local 9, Seattle, Wn., Local 1, Raymond, Wn., Local 3, Seattle, Wn., Local 19, Seattle, Wn., Local 68, St. Helens, Ore., Local 48, Reedsport, Ore., Local 26, Los Angeles, Calif., Local 91, San Francisco, Calif., Local 13, Wilmington, Calif., Local 29, San Diego, Calif., Local 2, San Francisco, Calif., Local 17, Broderick, Calif., Local 6, San Francisco, Calif., Local 33, San Pedro, Calif., Local 11, San Jose, Calif., Local 10, San Francisco, Calif., Local 63, Wilmington, Calif., Local 36, San Francisco, Calif., Local 62, Ketchikan, Alaska, Local 85, Petersburg, Alaska, Local 30, Ketchikan, Alaska, Local 142, Honolulu, T.H., Local 207, New Orleans, La., and Local 209, Cleveland, Ohio.

A Motion for Leave to File a Brief Amicus Curiae and a Brief Amicus Curiae on behalf of certain other locals of the ILWU, to-wit: Local 8, Portland, Ore., Local 50, Astoria, Ore., Local 21, Longview, Wn., Auxiliary of Local 12, Coos Bay, Ore., and Auxiliary of Local 11, Vancouver, Wn., has already been submitted to the Court.

[2] Murphy, J., in *Bridges v. Wixon*, 326 U.S. 135, at 157.

fact that he has given to this trade union militant and inspired leadership. ILWU and its members are concerned that trade union leadership of this kind can be regarded as the basis for criminal conduct.

ILWU is also concerned about the singling out of Bridges and his associates for special treatment by the Court below, especially with respect to the laws governing the application of the statute of limitations and the administration of criminal justice. It appears to ILWU and its members that not only has there been a continuous persecution of Bridges throughout the years, but that in order to achieve the ends sought it has been necessary to apply the law to Bridges and his associates in a manner in which it has never been applied to any other persons.

Because ILWU and its members believe that a cornerstone of American democracy is fair and equal treatment under the law, it is concerned about what has happened in this case and therefore prays leave to file the attached brief.

Dated, San Francisco, California,
February 2, 1953.

Respectfully submitted,
INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION (and certain of its affiliated locals),
Amicus Curiae.

By ALLAN BROTSKY,
Attorney for Amicus Curiae.

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BRIEF OF INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION (AND CERTAIN OF ITS AFFILIATED LOCALS) AS AMICUS CURIAE.

By leave of Court first had and obtained, International Longshoremen's and Warehousemen's Union (hereinafter referred to as ILWU), and certain of its affiliated locals named in the foregoing motion, herewith files the following brief *amicus curiae* in the

above-entitled causes, and urges that the pending petitions for certiorari herein be granted.

I.

For almost twenty years now Harry Renton Bridges has been the object of a relentless crusade unique in the annals of American jurisprudence. That this crusade followed upon Bridges' emergence as an outstanding leader of Maritime labor in the great San Francisco strike of 1934 is of considerable concern to the members of the unions he there led. It must also be of concern to those who believe that strong and vigorous trade unionism is an essential element of American democracy and ought not to be the basis for governmental persecution. That the chief instigators and the moving figures of this crusade have been either anti-labor elements or professional patrioteers, is also of concern to those who believe that such forces represent unhealthy elements in any democratic society.

Although the Court of Appeals for the Ninth Circuit made reference to the long history of proceedings against Bridges, it failed to appreciate their full significance. Contrary to the reasoning of many cases decided by this Court, it held that such a long continued series of persecutions did not deprive Bridges of due process of law.

Mr. Justice Frankfurter has said that due process of law requires that there be no "brutal subjection of an individual to successive retrials". (*Louisiana v. Resweber*, 329 U.S. 459.) And the Court below itself,

over twenty years ago, said that due process of law prohibited the Government from requiring that one lawfully admitted be "called upon again and again to prove his right to remain". (*Choy Yuen Chan v. United States*, 30 F. (2d) 516.)

It would seem that by failing to give any effect to what has been done to Bridges for the last twenty years, the Court below ignored the fact that such a course of conduct "offend[ed] those canons of decency and fairness which express the notions of justice of English speaking peoples." (*Adamson v. California*, 332 U.S. 46.) The due process clause, protecting as it does the "ultimate decency in a civilized society" (*ibid.* at 61), does not permit what has been done here to go unchallenged. At the very least, it requires this Court to review the proceedings below to see whether or not they measure up to the standards which this Court has applied in so many other cases.

II.

ILWU is also concerned with what appears to have been a discriminatory application of judicial principles to Bridges and his associates. This Court, and every Court of Appeals which has had occasion to consider the question, has held that a perjurious or false statement, whether in connection with so-called "tax frauds" or "naturalization frauds" or "citizenship frauds" or "employment frauds", is not within the scope and effect of the Wartime Suspension Act. (18 U.S.C. 3287.) And in every single case but this one, an indictment (or the counts

thereof) based upon such a false statement made more than three years before the return day, has been dismissed. *United States v. Noveck*, 271 U.S. 201; *United States v. McElvain*, 272 U.S. 633; *United States v. Scharton*, 285 U.S. 518; *Marzani v. United States* [D.C. Cir.], 168 F. (2d) 133, aff'd. 335 U.S. 895, 336 U.S. 922; *United States v. Obermeier* [2 Cir.], 186 F. (2d) 243, cert. den. 345 U.S. 951. *Cf. United States v. Beacon Brass Co., Inc.*, 344 U.S. 43; *United States v. Anzalone* [3 Cir.], 197 F. (2d) 714; *United States v. Grainger*, ...F. Supp. ..... [N.D. Calif., December 5, 1952].)

The Court below ignored these cases and applied a special rule to Bridges and his associates. This Court should grant the petitions for certiorari not only because the holding below conflicts with the decisions of this Court and of various Courts of Appeals, but also because such judicial discrimination against the petitioners is, as to them, a denial of due process of law. Compare this situation with *Yick Wo v. Hopkins*, 118 U.S. 356, where it was held that discrimination in the application of an otherwise valid statute constituted a denial of the equal protection of the laws.

III.

Furthermore, the Court below approved the trial Court's application to this case, and this case alone, of an instruction that a reasonable doubt meant a doubt for which "a good reason could be assigned". So far as we know, no Court has ever approved such

an instruction before. As a matter of fact, the Court of Appeals stated that such an instruction was not to be "commended". It did not consider how that instruction, together with other conduct of the trial Court, such as an improper limitation of defense cross-examination, hostile and prejudicial comments by the trial judge during the course of the trial, and other similar matters, resulted in the kind of error which must require reversal. (*Kotteakos v. United States,* 326 U.S. 711.)

The Court below appears to have condoned errors which normally would require a reversal of the judgments of conviction. As a matter of fact, on the day before the Court below denied the petition for rehearing in this case, it decided another case in a manner inconsistent with its decision here. In *Wolcher v. United States* (9 Cir., November 17, 1952), ... F. (2d) ....., the Court below, relying upon the rationale of this Court in *Kotteakos v. United States,* supra, reversed a conviction because of the erroneous exclusion of documentary evidence offered to corroborate the defendant's testimony. In the case of these petitioners, however, the Court below failed to apply the *Kotteakos* rule to the selfsame error of excluding from evidence a decision of this very Court (*Bridges v. Wixon,* 326 U.S. 135), offered by petitioners to corroborate their testimony.

For this radical departure from normal rules governing the administration of criminal law, and in order that the trial Courts may be properly advised concerning their duties and obligations in criminal

cases, this Court should grant the petition and rule upon the questions presented.

ILWU regards it as significant that only in a case involving Bridges and his associates was such a wide departure from the normal rules of criminal law condoned by an Appellate Court.

For the foregoing reasons, *amicus curiae* joins in the prayer of petitioners that the writ of certiorari be granted and the entire cause be reviewed by this Court.

Dated, San Francisco, California,
February 2, 1953.

INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION (and certain of its affiliated locals),
Amicus Curiae.

By ALLAN BROTSKY,
Attorney for Amicus Curiae.